

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

RODRIQUEZ MADARIS,  
Plaintiff,

vs

Case No. 1:11-cv-720

Weber, J.  
Bowman, M.J.

WARREN CORRECTIONAL  
INSTITUTION,  
Defendant.

**REPORT AND  
RECOMMENDATION**

On October 19, 2011, the Court issued a Deficiency Order, wherein plaintiff was ordered to “submit a completed application and affidavit to proceed without prepayment of fees and a certified copy his prison trust fund account statement (or institutional equivalent) or pay the full filing fee of \$350 within thirty (30) days.” (Doc. 4). Plaintiff was informed that his failure to comply with the Deficiency Order would result in the dismissal of his case for want of prosecution. Plaintiff was also advised that if his case is dismissed for failure to comply with the Deficiency Order, “the case will not be reinstated to the Court’s active docket despite the payment of the filing fee.” *Id.*

To date, plaintiff has failed to comply with the Court’s Deficiency Order. Accordingly, dismissal is appropriate. Fed. R. Civ. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991).

**IT IS THEREFORE RECOMMENDED THAT:**

1. Plaintiff’s case be **DISMISSED** with prejudice for lack of prosecution.
2. The Court certify pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal

of this Court's Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

s/Stephanie K. Bowman  
Stephanie K. Bowman  
United States Magistrate Judge

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**NOTICE REGARDING FILING OF OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).